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Attorneys for WestLB, AG

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

In re:

EASY STREET HOLDING, LLC, et al.,

Debtors.

Tax ID Numbers: 35-2183713 (Easy Street Holding, LLC), 20-4502979 (Easy Street Partners, LLC), and 84-1685764 (Easy Street Mezzanine, LLC)

Bankr. Case No. 09-29905

Jointly Administered with Bankr. Case Nos. 09-29907 and 09-29908

Chapter 11

Honorable R. Kimball Mosier

WESTLB, AG'S NOTICE OF SUBPOENAS

WestLB, AG, through counsel, hereby provides prior notice of the attached subpoenas to:

- 1. Appraisal Group, Inc.
- 2. Paul W. Throndsen
- 3. Sky Lodge Holdings, LLC
- 4. Vision Capital Partners, Inc.
- 5 Ed Bailey

These subpoenas will be issued pursuant to Federal Rule of Civil Procedure 45(b)(1) made applicable in this matter by Rule 9016 of the Federal Rules of Bankruptcy Procedure.

DATED this 17th day of May, 2010.

DORSEY &WHITNEY, LLP

/s/ Benjamin J. Kotter

Annette Jarvis Peggy Hunt Benjamin J. Kotter

and

Richard W. Havel SIDLEY AUSTIN LLP Attorneys for WestLB, AG Case 09-29905 Doc 494 Filed 05/17/10 Entered 05/17/10 15:23:58 Desc Main Document Page 3 of $32\square$

Exhibit 1

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UNITED STATES BANKRUPTCY COURT

District of Utah				
In re:				
EASY STREET HOLDING, LLC, et al.,	SUBPOENA DUCES TECUM			
Debtors. Address: 201 Heber Avenue Park City, Utah 84060	Case Number: 09-29905 RKM Jointly Administered with Cases 09-29907 and 09-29908			
	Chapter: 11 Honorable R. Kimball Mosier			
To: Appraisal Group, Inc. Paul W. Throndsen, Registered Agent 7396 South Union Park Avenue, Suite 301 Salt Lake City, Utah 84047 YOU ARE COMMANDED to appear in the United States Bankruptcy Court at	the place, date and time specified below to testify in the above			
CASE. PLACE OF TESTIMONY	COURTROOM			
	Date and time: :			
You are commanded in accordance with Rule 30(b)(6) of the Federal Ru 9014 and 7030 of the Federal Rules of Bankruptcy Procedure to designate of persons who shall appear on your behalf at the place, date, and time specific stenographically) in the above case regarding all matters related to the Approximation of the Approxim	ne or more officers, directors, managing agents or other and below to testify at the taking of a deposition (to be recorded aisal Report of the Sky Lodge (an existing six-story resort valuation date of December 4, 2009, including the subsequent			
PLACE OF TESTIMONY	DATE AND TIME			
Dorsey & Whitney, LLP	Friday, May 28, 2010 at 10:00 a.m. (Mountain)			
136 South Main Street, Suite 1000 Salt Lake City, Utah 84101	(Mountain)			
You are commanded to produce and permit inspection and copying of the specified below (list documents or objects): See Exhibit A	e following documents or objects at the place, date, and time			
PLACE	DATE AND TIME			
Dorsey & Whitney, LLP	On or before 4:30 p.m., Wednesday,			
136 South Main Street, Suite 1000	May 26, 2010			
Salt Lake City, Utah 84101				
☐ YOU ARE COMMANDED to permit inspection of the following premises at the				
PLACE	DATE AND TIME			

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedures, 30(b)(6) made applicable to this proceeding by rule 7030, Fed.R. Bankr.P. See Rules 1018 and 9014, Fed.R.Bankr.P.

May 17, 2010

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

ISSUING OFFICER SIGNATURE AND TITLE

Benjamin J. Kotter, Attorney for WestLB, AG DORSEY & WHITNEY LLP; 136 SOUTH MAIN STREET; SUITE 1000; SLC UTAH 84101; 801-933-7360

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		PROOF OF SERVICE
	DATE	PLACE
SERVED		
SERVED ON (PRINT NAME)		MANNER OF SERVICE
I declare unde Service is true and corr	er penalty of perjury under	DECLARATION OF SERVER e laws of the United States of America that the foregoing information contained in the Proof
Jet vice is true and con		
Executed on	Date	Signature of Server
	Date	Signature of Server Address of Server

- breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fee.
- A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.
 - Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance of such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order by the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any persons who is not a party or an officer of an party from significant expense resulting from the inspection and copying commanded.
- On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it (3)(A)
 - fails to allow reasonable time for compliance or.
 - requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person (ii) resides, is employed ore regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state which the trial is held or.
 - requires disclosure of privileged or other protected matter an no exception or waiver applies, or
 - (iv) subjects a person to undo burden.

(3)(B)If a subpoena

- requires disclosure of a trade secret or other confidential research, development, or commercial information, or,
- requires disclosure of an unretained expert's opinion or information not describing expert's opinion or information not describing specific (ii) events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the (iii) court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonable compensated, the court may order appearance or production only upon specified conditions.

DUTIES IN RESPONDING TO SUBPOENA. (d)

- A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and (1) label them to correspond with the categories in the demand.
- When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be (2)made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Exhibit A

DEFINITIONS

- A. "Address" means the present or last known street name and number, city or town, state and zip code.
 - B. "Alternative Funder" means any Person acceptable to Easy Street to fund the Plan.
- C. "And" and "or" are terms of inclusion, not exclusion, and they shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Discovery Requests any document or information that might otherwise be construed to be outside its scope.
 - D. "Any" means one or more.
- E. "Appraisal" means the Appraisal Report of Sky Lodge (an existing six-story resort condominium building) located at 201 Heber Avenue, Park City, Utah 84060 with a valuation date of December 4, 2009, together with the subsequent Addendum with a valuation date of April 6, 2010.
- F. "Appraisal Group" means Appraisal Group, Inc., a Utah corporation with its principal place of business located at 7396 South Union Park Avenue, Suite 301, Midvale, Utah 84047.
 - G. "BDRC" means BDRC 4Site, LLC.
- H. "Case" means the above-captioned jointly administered bankruptcy cases pending in the United States Bankruptcy Court for the District of Utah.
- I. "Communication" or "Communications" means any transfer or exchange of any information, whether by written, oral means, or electronic means, including, but not limited to, personal conversations, correspondence, telephone calls, e-mails, facsimiles, and telegrams. This definition includes all communications for which you claim a privilege.
- J. "Debtor" means Easy Street Partners, LLC together with its members, officers, directors, representatives, employees, agents, managers, members, shareholders, attorneys, parents, subsidiaries, BDRC and Gemstone in BDRC and Gemstone's capacity as manager, co-manager, adviser or consultant to Easy Street.
- K. "Disclosure Statement" means that certain Amended Disclosure Statement of Chapter 11 Plan of Reorganization of Easy Street Partners, LLC filed on February 17, 2010 [Docket No. 310], as amended by that certain Amended Disclosure Statement with Respect to Amended Plan of Reorganization of Easy Street Partners, LLC filed on February 25, 2010 [Docket No. 321], including all prior and/or subsequently modified or amended versions not defined herein.
- L. "Document" or "documents" means anything discoverable under Rule 34 of the Federal Rules of Civil Procedure and is used in the broadest and most liberal sense permitted by the Federal Rules of Civil Procedure. As used herein, "document" or "documents" means all written, printed or recorded

matter of any kind, whether printed or recorded or reproduced by any mechanical or electronic process, written or produced by hand or produced by or stored in a computer, regardless of origin or location, including, but not limited to, books, records, reports, correspondence, letters, telegrams, telecopies, memoranda, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, applications, booklets, brochures, catalogues, circulars, magazines, pamphlets, periodicals, bulletins, instructions, minutes, other communications (including, but not limited to, inter- and intra-office communications, in-person or telephone communications, interviews, or meetings), purchase orders, bills of lading, bid tabulations, questionnaires, surveys, contracts, agreements, options to purchase, memoranda of agreements, assignments, licenses, books of account, orders, invoices, statements, bills, checks, vouchers, ledger sheets, accounts, journals, canceled checks, check stubs or receipts or checkbook registers, bank statements, bank passbooks, confirmations, statements of accounts, schematics, analyses, diaries, graphs, notes, notebooks, evaluations, charts, tables, working papers, plans, indices, summaries or records of meetings or conferences, summaries or reports of investigations or negotiations, opinions or reports of accountants or consultants, data sheets, data processing cards, photographs, photographic negatives, phono-recordings, tape recordings, discs, wire recordings, transcripts of recordings, drawings, motion picture film, advertisements, press releases, drafts, and marginal comments appearing on any such documents, all other written, recorded or printed matter of any kind, including, but not limited to, any information contained in any computer although not yet in printed form in the possession, custody or control of you, your agents, attorneys or any other persons or entity purporting to act on your behalf, or any other and all other data compilations from which information can be obtained and translated if necessary. This definition includes drafts of all "documents" regardless of whether they were executed or not and all non-identical copies shall be considered a separate document for purposes of the requests set forth herein.

- M. "Fractional Units" means certain units or fractional interests in units with respect to the Sky Lodge Private Residence Club and Hotel owned and operated by Easy Street in Park City, Utah.
- N. "Funding Agreement" means that certain agreement under which an entity will own 100% of the Reorganized Debtor, as defined in the Plan, or will otherwise provide funding to Easy Street.
 - O. "Gemstone" means Gemstone Hotels & Resorts, LLC.
 - P. "Identify," "identity," or "identification" means, when used in reference to:
 - 1) a natural person, his or her: (i) full name; (ii) last known home address; (iii) last known business address; and (iv) present or last known position, business affiliation, and job title or description.
 - a company, corporation, association, partnership, or any legal entity other than a natural person: (i) its full name; (ii) a description of the type of organization or entity; (iii) the address of its principal place of business; (iv) the jurisdiction of its incorporation or organization; and (v) the date of its incorporation or organization.
 - a document: (i) its description (for example, letter, memorandum, report, etc.); (ii) its title; (iii) its date; (iv) the number of pages thereof; (v) its subject matter; (vi) the identity of its author, signer, and any person who participated in its preparation; (vii) the identity of its addressee or recipient; (viii) the identity of each person to whom copies were sent and each person by whom copies were received; (ix) its present location; and (x) the identity of its custodian. (If any such document was, but is no longer, in your possession or subject to your control, state what disposition was made of it and when).

- an oral communication: (i) the date and time when it occurred; (ii) the place where it occurred; (iii) the complete substance of the communication; (iv) the identity of each person to whom such communication was made, by whom such communication was made; and who was present when such communication was made; and (v) the identity of all documents memorializing, referring or related in any way to the subject matter of the communication.
- Q. "Including" means including but not limited to.
- R. "Mezzanine Escrow" means an amount of money held for distribution pursuant to a plan of reorganization or liquidation to be filed by Easy Street Mezzanine, LLC, as defined in the Plan.
- S. "Person" means the plural as well as the singular, and includes any natural person, corporation, partnership, joint venture, association, financial institution, trust, commission, board, governmental agency, other business association or entity, and every other form of entity cognizable by law.
- T. "Plan" means that certain Amended Chapter 11 Plan of Reorganization of Easy Street Partners, LLC filed on February 17, 2010 [Docket No. 309] as amended by that certain Amended Chapter 11 Plan of Reorganization of Easy Street Partners filed on February 25, 2010 [Docket No. 323], including all prior and/or subsequently modified or amended versions not defined herein.
- U. "Plan Funder" means VCP or any entity formed by VCP or an affiliate of VCP, including but not limited to Sky Lodge Holdings, LLC, to fund the Plan.
- V. "Relate," "related," "relating to," "related to," and "regarding" means concerning, respecting, referring to, summarizing, digesting, embodying, reflecting, establishing, tending to establish, tending not to establish, evidencing, comprising, connected with, commenting on, responding to, disagreeing with, showing, describing, analyzing, representing, constituting or including.
- W. "Sky Lodge Holdings" means Sky Lodge Holdings, LLC, a Utah limited liability company.
 - X. "VCP" means Vision Capital Partners, Inc.
 - Y. "You" or "your" means Appraisal Group.

INSTRUCTIONS

1. You are requested to produce all documents available to you, and to your agents, representatives, attorneys, and employees, in answering the following Requests. If you know of responsive documents which are not available to you, your agents, representatives, attorneys and/or employees, please state the name and address of every person in possession of such documents and provide a full description of the document, including its location.

- 2. If any document responsive to any Request is withheld on the grounds of privilege or otherwise, then you shall provide a log with the following information relating to each Document or portion of a Document withheld: (a) the kind of Document (e.g., memorandum, letter, notes, etc.); (b) the date of the Document, or if no date appears thereon, the approximate date the Document was prepared; (c) the identity of the author; (d) the identity of the person to whom the Document is addressed; (e) the identity of any other recipients of the Document that appear on the Document as having received a copy (e.g., as "cc" or "bcc"); (f) the identity of any attachments to the Documents and whether the attachments have been produced; (g) the claim of privilege providing the alleged grounds for withholding the Document (e.g., attorney-client privilege, work product privilege, etc.); and (h) the paragraph of the Document Request to which each document and/or communication is responsive.
- When used in the course of an enumeration of items as to which documents are requested, the words "and" and "or" are to be construed as requesting documents as to each item in the enumeration, the same as if the entire request had been addressed solely to that item.
- 4. Any term used in the singular shall be deemed to include the plural where appropriate and vice versa.
- 5. The use of a verb in any tense shall be construed as the use of the verb in all other tenses, wherever necessary to bring within the scope of the specification of any document that might otherwise be construed to be outside its scope.
 - 6. All electronic documents shall be produced in their original electronic format.
- 7. If any documents requested herein have been destroyed, lost, discarded or otherwise disposed of, identify such information as completely as possible, including, without limitation, the following information: contents; author(s); recipient(s); sender(s); date prepared and/or received; date of disposal/destruction; manner of disposal/destruction; and person(s) currently in possession of the

information; the person(s) disposing of and/or destroying the information; and the circumstances surrounding the disposal or destruction of the information.

SUBPOENA REQUESTS

REQUEST NO. 1

Please produce any and all documents referring or relating to the Appraisal and the formulation thereof.

REQUEST NO. 2

Please produce any and all documents exchanged between you and the Debtor, or shared internally between your employees or representatives regarding the Appraisal and the formulation thereof.

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Exhibit 2

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UNITED STATES BANKRUPTCY COURT

District of U	tah		
In re:	CURROENA		
EASY STREET HOLDING, LLC, et al.,	SUBPOENA		
Debtors. Address: 201 Heber Avenue Park City, Utah 84060	Case Number: 09-29905 RKM Jointly Administered with Cases 09-29907 and 09-29908 Chapter: 11		
	Honorable R. Kimball Mosier		
To: Paul W. Throndsen 7396 South Union Park Avenue, Suite 301 Salt Lake City, Utah 84047 You are commanded to appear in the United States Bankruptcy Court at case.	the place, date and time specified below to testify in the above		
PLACE OF TESTIMONY	COURTROOM		
	Date and time: :		
You are commanded to appear at the place, date, and time specified be stenographically) in the above case PLACE OF TESTIMONY Dorsey & Whitney, LLP 136 South Main Street, Suite 1000 Salt Lake City, Utah 84101	DATE AND TIME Friday, May 28, 2010 at 10:00 a.m. (Mountain)		
You are commanded to produce and permit inspection and copying of the	e following documents or objects at the place, date, and time		
specified below (list documents or objects): PLACE	DATE AND TIME		
☐ YOU ARE COMMANDED to permit inspection of the following premises at the	e date and time specified below.		
PLACE	DATE AND TIME		
Any organization not a party to this suit that is subpoenaed for the taking of managing agents, or other persons who consent to testify on its behalf, and the person will testify. Federal Rules of Civil Procedures, 30(b)(6) made appropriate the person will testify. Federal Rules of Civil Procedures, 30(b)(6) made appropriate the person will testify.	may set forth, for each person designated, the matters on which		
ISSUING OFFICER SIGNATURE AND THE	May 17, 2010		
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Benjamin J. Kotter, Attorney for WestLB, AG DORSEY & WHITNEY LLP; 136 SOUTH MAIN STREET; SUITE 1000; SLC UTAI	н 84101; 801-933-7360		

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 -				PROOF C	F SERVICE
			DATE	PLACE	
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SERVED ON (F	PRINT N	IAME)			MANNER OF SERVICE
					ON OF CERVER
-					ON OF SERVER
l de Service is tru			nalty of perjury under the	laws of the United	States of America that the foregoing information contained in the Proof
Executed o	n		Doto	Signs	ture of Server
			Date	Signo	tale of Server
				Addre	ess of Server
Julo 45 Fodora	I Pulos	of Civil Proce	edure Parts (c) & (d) made appli	cable in cases under the l	Bankruptcy Code by Rule 9016, Fed. R. Bankr. P.
(2)	A pa perso brea (A)	A person corpremises in Subject to subpoena a subpoena a any time for party from	that subpoena. The court on being an appropriate sanction, which commanded to produce and permited not appear in person at the paragraph (d)(2) of this rule, a peop before the time specified for convintion objection to inspection or a shall not be entitled to inspection or the property of the page 1990.	half of which the subpoen may include, but is not lin it inspection and copying place of production or inspersion commanded to produmpliance of such time is copying of any or all of the tand copy the materials on made, the party serving on. Such an order to con in the inspection and copy	
(i) fails to allow reasonable time for compliance (ii) requires a person who is not a party or an oresides, is employed ore regularly transacts such a person may in order to attend trial by		party or an officer of a pa orly transacts business in attend trial be commande d or other protected matte	officer of a party to travel to a place more than 100 miles from the place where that person officer of a party to travel to a place more than 100 miles from the place where that person that business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, be commanded to travel from any such place within the state which the trial is held or, protected matter an no exception or waiver applies, or		
(3)	(B)	If a subpoo	ena		
		(i) (ii) (iii)	requires disclosure of an unret events or occurrences in dispu requires a person who is not a court may, to protect a person	ained expert's opinion or it and resulting from the party or an officer of a passibject to or affected by the test of the test	research, development, or commercial information, or, information not describing expert's opinion or information not describing specific expert's study made not at the request of any party, or rty to incur substantial expense to travel more than 100 miles to attend trial, the he subpoena, quash or modify the subpoena or, if the party in whose behalf the timony or material that cannot be otherwise met without undue hardship and ssed will be reasonable compensated, the court may order appearance or

of

(d) DUTIES IN RESPONDING TO SUBPOENA.

production only upon specified conditions.

A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

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Exhibit 3

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UNITED STATES BANKRUPTCY COURT

District of Utah In re: SUBPOENA DUCES TECUM EASY STREET HOLDING, LLC, et al., Case Number: 09-29905 RKM Debtors. Jointly Administered with Cases 09-29907 and 09-29908 Address: 201 Heber Avenue Park City, Utah 84060 Chapter: 11 Honorable R. Kimball Mosier To: Sky Lodge Holdings, LLC Ed Bailey, Authorized Agent 9045 South 1300 East Sandy, Utah 84091 YOU ARE COMMANDED to appear in the United States Bankruptcy Court at the place, date and time specified below to testify in the above COURTROOM PLACE OF TESTIMONY Date and time: : ☑ YOU ARE COMMANDED in accordance with Rule 30(b)(6) of the Federal Rules of Civil Procedure, made applicable in this matter by Rules 9014 and 7030 of the Federal Rules of Bankruptcy Procedure, to designate one or more officers, directors, managing agents or other persons who shall appear on your behalf at the place, date, and time specified below to testify at the taking of a deposition (to be recorded stenographically) in the above case regarding the negotiation of the terms of the funding of any Plan of Reorganization (the "Plan") filed in the above-captioned bankruptcy proceeding and your financial capability to fund the Plan. DATE AND TIME PLACE OF TESTIMONY Friday, May 28, 2010 at 10:00 a.m. Dorsey & Whitney, LLP (Mountain) 136 South Main Street, Suite 1000 Salt Lake City, Utah 84101 YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): See Exhibit A. DATE AND TIME PLACE Dorsey & Whitney, LLP On or before 4:30 p.m., 136 South Main Street, Suite 1000 Wednesday, May 26, 2010 Salt Lake City, Utah 84101 YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below. DATE AND TIME PLACE Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedures, 30(b)(6) made applicable to this proceeding by rule 7030, Fed.R. Bankr.P. See Rules 1018 and 9014, Fed.R.Bankr.P. ISSUING OFFICER SIGNATURE AND THE DATE May 17, 2010 ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Benjamin J. Kotter, Attorney for WestLB, AG

DORSEY & WHITNEY LLP, 136 SOUTH MAIN STREET; SUITE 1000; SLC UTAH 84101; 801-933-7360

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			PROOF OF SERVICE	-
		DATE	PLACE	-
SERVED				_
SERVED ON (PRINT NAME)			MANNER OF SERVICE	
			DECLARATION OF SERVER	-
I de Service is tru			ne laws of the United States of America that the foregoing information contained in the Proof of	
Executed o	n	Date	Signature of Server	
			Address of Server	_
Rule 45, Federa	l Rules	of Civil Procedure, Parts (c) & (d) made a	plicable in cases under the Bankruptcy Code by Rule 9016, Fed. R. Bankr. P.	
(c) PROTECTIC (1)	A pa	on subject to that subpoena. The court or	nce and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in ch may include, but is not limited to, lost earnings and reasonable attorney's fee.	
(2)	(A)	A person commanded to produce and p premises need not appear in person at	mit inspection and copying of designated books, papers, documents or tangible things, or inspection of e place of production or inspection unless commanded to appear for deposition, hearing or trial.	
	(B)	subpoena or before the time specified for subpoena written objection to inspection the subpoena shall not be entitled to ins subpoena was issued. If objection has	person commanded to produce and permit inspection and copying may, within 14 days after service of the compliance of such time is less than 14 days after service, serve upon the party or attorney designated in the or copying of any or all of the designated materials or of the premises. If objection is made, the party serving ect and copy the materials or inspect the premises except pursuant to an order by the court by which the een made, the party serving the subpoena may, upon notice to the person commanded to produce, move at a location. Such an order to compel production shall protect any persons who is not a party or an officer of an	

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

party from significant expense resulting from the inspection and copying commanded.

- (i) fails to allow reasonable time for compliance or,
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed ore regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state which the trial is held or,
- (iii) requires disclosure of privileged or other protected matter an no exception or waiver applies, or
- (iv) subjects a person to undo burden.
- (3)(B) If a subpoena
 - requires disclosure of a trade secret or other confidential research, development, or commercial information, or,
 - requires disclosure of an unretained expert's opinion or information not describing expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
 - (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonable compensated, the court may order appearance or production only upon specified conditions.
- (d) DUTIES IN RESPONDING TO SUBPOENA.
 - A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
 - (2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Exhibit A

DEFINITIONS

- A. "Address" means the present or last known street name and number, city or town, state and zip code.
 - B. "Alternative Funder" means any Person acceptable to Easy Street to fund the Plan.
- C. "And" and "or" are terms of inclusion, not exclusion, and they shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Discovery Requests any document or information that might otherwise be construed to be outside its scope.
 - D. "Any" means one or more.
- E. "Appraisal" means the Appraisal Report of Sky Lodge (an existing six-story resort condominium building) located at 201 Heber Avenue, Park City, Utah 84060 with a valuation date of December 4, 2009, together with the subsequent Addendum with a valuation date of April 6, 2010.
- F. "Appraisal Group" means Appraisal Group, Inc., a Utah corporation with its principal place of business located at 7396 South Union Park Avenue, Suite 301, Midvale, Utah 84047.
 - G. "BDRC" means BDRC 4Site, LLC.
- H. "Case" means the above-captioned jointly administered bankruptcy cases pending in the United States Bankruptcy Court for the District of Utah.
- I. "Communication" or "Communications" means any transfer or exchange of any information, whether by written, oral means, or electronic means, including, but not limited to, personal conversations, correspondence, telephone calls, e-mails, facsimiles, and telegrams. This definition includes all communications for which you claim a privilege.
- J. "Debtor" means Easy Street Partners, LLC together with its members, officers, directors, representatives, employees, agents, managers, members, shareholders, attorneys, parents, subsidiaries, BDRC and Gemstone in BDRC and Gemstone's capacity as manager, co-manager, adviser or consultant to Easy Street.
- K. "Disclosure Statement" means that certain Amended Disclosure Statement of Chapter 11 Plan of Reorganization of Easy Street Partners, LLC filed on February 17, 2010 [Docket No. 310], as amended by that certain Amended Disclosure Statement with Respect to Amended Plan of Reorganization of Easy Street Partners, LLC filed on February 25, 2010 [Docket No. 321], including all prior and/or subsequently modified or amended versions not defined herein.
- L. "Document" or "documents" means anything discoverable under Rule 34 of the Federal Rules of Civil Procedure and is used in the broadest and most liberal sense permitted by the Federal Rules of Civil Procedure. As used herein, "document" or "documents" means all written, printed or recorded

matter of any kind, whether printed or recorded or reproduced by any mechanical or electronic process, written or produced by hand or produced by or stored in a computer, regardless of origin or location, including, but not limited to, books, records, reports, correspondence, letters, telegrams, telecopies, memoranda, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, applications, booklets, brochures, catalogues, circulars, magazines, pamphlets, periodicals, bulletins, instructions, minutes, other communications (including, but not limited to, inter- and intra-office communications, in-person or telephone communications, interviews, or meetings), purchase orders, bills of lading, bid tabulations, questionnaires, surveys, contracts, agreements, options to purchase, memoranda of agreements, assignments, licenses, books of account, orders, invoices, statements, bills, checks, vouchers, ledger sheets, accounts, journals, canceled checks, check stubs or receipts or checkbook registers, bank statements, bank passbooks, confirmations, statements of accounts, schematics, analyses, diaries, graphs, notes, notebooks, evaluations, charts, tables, working papers, plans, indices, summaries or records of meetings or conferences, summaries or reports of investigations or negotiations, opinions or reports of accountants or consultants, data sheets, data processing cards, photographs, photographic negatives, phono-recordings, tape recordings, discs, wire recordings, transcripts of recordings, drawings, motion picture film, advertisements, press releases, drafts, and marginal comments appearing on any such documents, all other written, recorded or printed matter of any kind, including, but not limited to, any information contained in any computer although not yet in printed form in the possession, custody or control of you, your agents, attorneys or any other persons or entity purporting to act on your behalf, or any other and all other data compilations from which information can be obtained and translated if necessary. This definition includes drafts of all "documents" regardless of whether they were executed or not and all non-identical copies shall be considered a separate document for purposes of the requests set forth herein.

- M. "Fractional Units" means certain units or fractional interests in units with respect to the Sky Lodge Private Residence Club and Hotel owned and operated by Easy Street in Park City, Utah.
- N. "Funding Agreement" means that certain agreement under which an entity will own 100% of the Reorganized Debtor, as defined in the Plan, or will otherwise provide funding to Easy Street.
 - O. "Gemstone" means Gemstone Hotels & Resorts, LLC.
 - P. "Identify," "identity," or "identification" means, when used in reference to:
 - 1) a natural person, his or her: (i) full name; (ii) last known home address; (iii) last known business address; and (iv) present or last known position, business affiliation, and job title or description.
 - a company, corporation, association, partnership, or any legal entity other than a natural person: (i) its full name; (ii) a description of the type of organization or entity; (iii) the address of its principal place of business; (iv) the jurisdiction of its incorporation or organization; and (v) the date of its incorporation or organization.
 - a document: (i) its description (for example, letter, memorandum, report, etc.); (ii) its title; (iii) its date; (iv) the number of pages thereof; (v) its subject matter; (vi) the identity of its author, signer, and any person who participated in its preparation; (vii) the identity of its addressee or recipient; (viii) the identity of each person to whom copies were sent and each person by whom copies were received; (ix) its present location; and (x) the identity of its custodian. (If any such document was, but is no longer, in your possession or subject to your control, state what disposition was made of it and when).

- an oral communication: (i) the date and time when it occurred; (ii) the place where it occurred; (iii) the complete substance of the communication; (iv) the identity of each person to whom such communication was made, by whom such communication was made; and who was present when such communication was made; and (v) the identity of all documents memorializing, referring or related in any way to the subject matter of the communication.
- Q. "Including" means including but not limited to.
- R. "Mezzanine Escrow" means an amount of money held for distribution pursuant to a plan of reorganization or liquidation to be filed by Easy Street Mezzanine, LLC, as defined in the Plan.
- S. "Person" means the plural as well as the singular, and includes any natural person, corporation, partnership, joint venture, association, financial institution, trust, commission, board, governmental agency, other business association or entity, and every other form of entity cognizable by law.
- T. "Plan" means that certain Amended Chapter 11 Plan of Reorganization of Easy Street Partners, LLC filed on February 17, 2010 [Docket No. 309] as amended by that certain Amended Chapter 11 Plan of Reorganization of Easy Street Partners filed on February 25, 2010 [Docket No. 323], including all prior and/or subsequently modified or amended versions not defined herein.
- U. "Plan Funder" means you or any entity formed by VCP or an affiliate of VCP, including but not limited to you, to fund the Plan.
- V. "Relate," "related," "relating to," "related to," and "regarding" means concerning, respecting, referring to, summarizing, digesting, embodying, reflecting, establishing, tending to establish, tending not to establish, evidencing, comprising, connected with, commenting on, responding to, disagreeing with, showing, describing, analyzing, representing, constituting or including.
 - W. "VCP" means Vision Capital Partners, Inc.
 - X. "You" or "your" means Sky Lodge Holdings, LLC, a Utah limited liability company.

INSTRUCTIONS

- 1. You are requested to produce all documents available to you, and to your agents, representatives, attorneys, and employees, in answering the following Requests. If you know of responsive documents which are not available to you, your agents, representatives, attorneys and/or employees, please state the name and address of every person in possession of such documents and provide a full description of the document, including its location.
- 2. If any document responsive to any Request is withheld on the grounds of privilege or otherwise, then you shall provide a log with the following information relating to each Document or

portion of a Document withheld: (a) the kind of Document (e.g., memorandum, letter, notes, etc.); (b) the date of the Document, or if no date appears thereon, the approximate date the Document was prepared; (c) the identity of the author; (d) the identity of the person to whom the Document is addressed; (e) the identity of any other recipients of the Document that appear on the Document as having received a copy (e.g., as "cc" or "bcc"); (f) the identity of any attachments to the Documents and whether the attachments have been produced; (g) the claim of privilege providing the alleged grounds for withholding the Document (e.g., attorney-client privilege, work product privilege, etc.); and (h) the paragraph of the Document Request to which each document and/or communication is responsive.

- 3. When used in the course of an enumeration of items as to which documents are requested, the words "and" and "or" are to be construed as requesting documents as to each item in the enumeration, the same as if the entire request had been addressed solely to that item.
- 4. Any term used in the singular shall be deemed to include the plural where appropriate and vice versa.
- 5. The use of a verb in any tense shall be construed as the use of the verb in all other tenses, wherever necessary to bring within the scope of the specification of any document that might otherwise be construed to be outside its scope.
 - 6. All electronic documents shall be produced in their original electronic format.
- 7. If any documents requested herein have been destroyed, lost, discarded or otherwise disposed of, identify such information as completely as possible, including, without limitation, the following information: contents; author(s); recipient(s); sender(s); date prepared and/or received; date of disposal/destruction; manner of disposal/destruction; and person(s) currently in possession of the information; the person(s) disposing of and/or destroying the information; and the circumstances surrounding the disposal or destruction of the information.

SUBPOENA REQUESTS

REQUEST NO. 1

Please produce any and all documents referring or relating to any Funding Agreement and the negotiation thereof.

REQUEST NO. 2

Please produce any and all documents between you and the Debtor and/or BDRC relating to any Funding Agreement or the Plan.

REQUEST NO. 3

Please produce any and all documents exchanged between you and the Debtor and/or BDRC, or shared internally between your employees or representatives regarding any Plan funding and or Funding Agreement.

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Exhibit 4

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UNITED STATES BANKRUPTCY COURT

District of Uta	ah			
In re:	OURDOENA DUCES TECUM			
EASY STREET HOLDING, LLC, et al.,	SUBPOENA DUCES TECUM Case Number: 09-29905 RKM			
Debtors.	Jointly Administered with Cases			
Address: 201 Heber Avenue	09-29907 and 09-29908			
Park City, Utah 84060				
	Chapter: 11			
	Honorable R. Kimball Mosier			
To: Vision Capital Partners Ed Bailey, Authorized Agent 9045 South 1300 East Sandy, Utah 84091				
You are commanded to appear in the United States Bankruptcy Court at the case.	ne place, date and time specified below to testify in the above			
PLACE OF TESTIMONY	COURTROOM			
	Date and time: :			
stenographically) in the above case regarding the negotiation of the terms of the above-captioned bankruptcy proceeding and your financial capability to ful PLACE OF TESTIMONY Dorsey & Whitney, LLP 136 South Main Street, Suite 1000 Salt Lake City, Utah 84101	DATE AND TIME Friday, May 28, 2010 at 10:00 a.m. (Mountain)			
YOU ARE COMMANDED to produce and permit inspection and copying of the	following documents or objects at the place, date, and time			
specified below (list documents or objects): See Exhibit A. PLACE	DATE AND TIME			
Dorsey & Whitney, LLP	On or before 4:30 p.m.,			
136 South Main Street, Suite 1000	Wednesday, May 26, 2010			
Salt Lake City, Utah 84101				
☐ YOU ARE COMMANDED to permit inspection of the following premises at the	date and time specified below.			
PLACE	DATE AND TIME			
Any organization not a party to this suit that is subpoenaed for the taking of a managing agents, or other persons who consent to testify on its behalf, and much person will testify. Federal Rules of Civil Procedures, 30(b)(6) made application and 9014, Fed.R.Bankr.P.	hay set forth, for each person designated, the matters on which			
ISSUING OFFICE SIGNATURE AND TITLE A	DATE			
ISSUING OFFICER'S NAME, ADDRESS AND PHOME NUMBER Benjamin J. Kotter, Attorney for WestLB, AG	May 17, 2010			

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					PRO	OF OF	SERVICE
				DATE		PLACE	
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					DECLA	RATIO	N OF SERVER
Service			under pe I correct.	nalty of perjury under t	he laws of the	e United St	ates of America that the foregoing information contained in the Proof o
Execute	ed or	i		Date		Signatu	re of Server
						Addres	s of Server
Rule 45, F	ederal	Rules	of Civil Proce	edure, Parts (c) & (d) made ap	oplicable in cases	under the Bar	kruptcy Code by Rule 9016, Fed. R. Bankr. P.
(c) PROTE	(1) (2) (3)(A	A pa persi brea (A)	ty or an attorn subject to ch of this duty. A person or premises not subpoen a subpoen a subpoen a vany time for party from: On timely recommendation (ii) (iii)	that subpoena. The court on y an appropriate sanction, who commanded to produce and period period of the time specified for written objection to inspection as shall not be entitled to inspection has been an order to compel the producing in the producing	behalf of which the trich may include, the main inspection are place of product person command compliance of such and copy the een made, the pauction. Such and crom the inspection ubpoena was issue of compliance to a party or an offigularly transacts be to attend trial be ged or other protes.	ne subpoena wout is not limite and copying of cotion or inspect ded to produce uch time is less or all of the dimaterials or rarty serving the order to compen and copying ued shall quasition, iccer of a party business in percommanded to	
	(3)(E	3)	(iv) If a subpos	subjects a person to undo b ena	uruen.		
	V-1/1	•	(i) (ii) (iii)	requires disclosure of a trad requires disclosure of an un events or occurrences in dis requires a person who is no court may, to protect a pers	retained expert's spute and resultin t a party or an off on subject to or a a substantial need whom the subpoe	opinion or info g from the exp ficer of a party ffected by the	search, development, or commercial information, or, rmation not describing expert's opinion or information not describing specific ert's study made not at the request of any party, or to incur substantial expense to travel more than 100 miles to attend trial, the subpoena, quash or modify the subpoena or, if the party in whose behalf the ony or material that cannot be otherwise met without undue hardship and d will be reasonable compensated, the court may order appearance or

(d) DUTIES IN RESPONDING TO SUBPOENA.

- A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- label them to correspond with the categories in the demand.

 When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Exhibit A

DEFINITIONS

- A. "Address" means the present or last known street name and number, city or town, state and zip code.
 - B. "Alternative Funder" means any Person acceptable to Easy Street to fund the Plan.
- C. "And" and "or" are terms of inclusion, not exclusion, and they shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Discovery Requests any document or information that might otherwise be construed to be outside its scope.
 - D. "Any" means one or more.
- E. "Appraisal" means the Appraisal Report of Sky Lodge (an existing six-story resort condominium building) located at 201 Heber Avenue, Park City, Utah 84060 with a valuation date of December 4, 2009, together with the subsequent Addendum with a valuation date of April 6, 2010.
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- J. "Debtor" means Easy Street Partners, LLC together with its members, officers, directors, representatives, employees, agents, managers, members, shareholders, attorneys, parents, subsidiaries, BDRC and Gemstone in BDRC and Gemstone's capacity as manager, co-manager, adviser or consultant to Easy Street.
- K. "Disclosure Statement" means that certain Amended Disclosure Statement of Chapter 11 Plan of Reorganization of Easy Street Partners, LLC filed on February 17, 2010 [Docket No. 310], as amended by that certain Amended Disclosure Statement with Respect to Amended Plan of Reorganization of Easy Street Partners, LLC filed on February 25, 2010 [Docket No. 321], including all prior and/or subsequently modified or amended versions not defined herein.
- L. "Document" or "documents" means anything discoverable under Rule 34 of the Federal Rules of Civil Procedure and is used in the broadest and most liberal sense permitted by the Federal Rules of Civil Procedure. As used herein, "document" or "documents" means all written, printed or recorded

matter of any kind, whether printed or recorded or reproduced by any mechanical or electronic process, written or produced by hand or produced by or stored in a computer, regardless of origin or location, including, but not limited to, books, records, reports, correspondence, letters, telegrams, telecopies, memoranda, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, applications, booklets, brochures, catalogues, circulars, magazines, pamphlets, periodicals, bulletins, instructions, minutes, other communications (including, but not limited to, inter- and intra-office communications, in-person or telephone communications, interviews, or meetings), purchase orders, bills of lading, bid tabulations, questionnaires, surveys, contracts, agreements, options to purchase, memoranda of agreements, assignments, licenses, books of account, orders, invoices, statements, bills, checks, vouchers, ledger sheets, accounts, journals, canceled checks, check stubs or receipts or checkbook registers, bank statements, bank passbooks, confirmations, statements of accounts, schematics, analyses, diaries, graphs, notes, notebooks, evaluations, charts, tables, working papers, plans, indices, summaries or records of meetings or conferences, summaries or reports of investigations or negotiations, opinions or reports of accountants or consultants, data sheets, data processing cards, photographs, photographic negatives, phono-recordings, tape recordings, discs, wire recordings, transcripts of recordings, drawings, motion picture film, advertisements, press releases, drafts, and marginal comments appearing on any such documents, all other written, recorded or printed matter of any kind, including, but not limited to, any information contained in any computer although not yet in printed form in the possession, custody or control of you, your agents, attorneys or any other persons or entity purporting to act on your behalf, or any other and all other data compilations from which information can be obtained and translated if necessary. This definition includes drafts of all "documents" regardless of whether they were executed or not and all non-identical copies shall be considered a separate document for purposes of the requests set forth herein.

- M. "Fractional Units" means certain units or fractional interests in units with respect to the Sky Lodge Private Residence Club and Hotel owned and operated by Easy Street in Park City, Utah.
- N. "Funding Agreement" means that certain agreement under which an entity will own 100% of the Reorganized Debtor, as defined in the Plan, or will otherwise provide funding to Easy Street.
 - O. "Gemstone" means Gemstone Hotels & Resorts, LLC.
 - P. "Identify," "identity," or "identification" means, when used in reference to:
 - 1) a natural person, his or her: (i) full name; (ii) last known home address; (iii) last known business address; and (iv) present or last known position, business affiliation, and job title or description.
 - 2) a company, corporation, association, partnership, or any legal entity other than a natural person: (i) its full name; (ii) a description of the type of organization or entity; (iii) the address of its principal place of business; (iv) the jurisdiction of its incorporation or organization; and (v) the date of its incorporation or organization.
 - a document: (i) its description (for example, letter, memorandum, report, etc.); (ii) its title; (iii) its date; (iv) the number of pages thereof; (v) its subject matter; (vi) the identity of its author, signer, and any person who participated in its preparation; (vii) the identity of its addressee or recipient; (viii) the identity of each person to whom copies were sent and each person by whom copies were received; (ix) its present location; and (x) the identity of its custodian. (If any such document was, but is no longer, in your possession or subject to your control, state what disposition was made of it and when).

- an oral communication: (i) the date and time when it occurred; (ii) the place where it occurred; (iii) the complete substance of the communication; (iv) the identity of each person to whom such communication was made, by whom such communication was made; and who was present when such communication was made; and (v) the identity of all documents memorializing, referring or related in any way to the subject matter of the communication.
- Q. "Including" means including but not limited to.
- R. "Mezzanine Escrow" means an amount of money held for distribution pursuant to a plan of reorganization or liquidation to be filed by Easy Street Mezzanine, LLC, as defined in the Plan.
- S. "Person" means the plural as well as the singular, and includes any natural person, corporation, partnership, joint venture, association, financial institution, trust, commission, board, governmental agency, other business association or entity, and every other form of entity cognizable by law.
- T. "Plan" means that certain Amended Chapter 11 Plan of Reorganization of Easy Street Partners, LLC filed on February 17, 2010 [Docket No. 309] as amended by that certain Amended Chapter 11 Plan of Reorganization of Easy Street Partners filed on February 25, 2010 [Docket No. 323], including all prior and/or subsequently modified or amended versions not defined herein.
- U. "Plan Funder" means you or any entity formed by you or your affiliate, including but not limited to Sky Lodge Holdings, LLC, to fund the Plan.
- V. "Relate," "related," "relating to," "related to," and "regarding" means concerning, respecting, referring to, summarizing, digesting, embodying, reflecting, establishing, tending to establish, tending not to establish, evidencing, comprising, connected with, commenting on, responding to, disagreeing with, showing, describing, analyzing, representing, constituting or including.
- W. "Sky Lodge Holdings" means Sky Lodge Holdings, LLC, a Utah limited liability company.
 - X. "You" or "your" means Vision Capital Partners, Inc.

INSTRUCTIONS

1. You are requested to produce all documents available to you, and to your agents, representatives, attorneys, and employees, in answering the following Requests. If you know of responsive documents which are not available to you, your agents, representatives, attorneys and/or employees, please state the name and address of every person in possession of such documents and provide a full description of the document, including its location.

- 2. If any document responsive to any Request is withheld on the grounds of privilege or otherwise, then you shall provide a log with the following information relating to each Document or portion of a Document withheld: (a) the kind of Document (e.g., memorandum, letter, notes, etc.); (b) the date of the Document, or if no date appears thereon, the approximate date the Document was prepared; (c) the identity of the author; (d) the identity of the person to whom the Document is addressed; (e) the identity of any other recipients of the Document that appear on the Document as having received a copy (e.g., as "cc" or "bcc"); (f) the identity of any attachments to the Documents and whether the attachments have been produced; (g) the claim of privilege providing the alleged grounds for withholding the Document (e.g., attorney-client privilege, work product privilege, etc.); and (h) the paragraph of the Document Request to which each document and/or communication is responsive.
- 3. When used in the course of an enumeration of items as to which documents are requested, the words "and" and "or" are to be construed as requesting documents as to each item in the enumeration, the same as if the entire request had been addressed solely to that item.
- 4. Any term used in the singular shall be deemed to include the plural where appropriate and vice versa.
- 5. The use of a verb in any tense shall be construed as the use of the verb in all other tenses, wherever necessary to bring within the scope of the specification of any document that might otherwise be construed to be outside its scope.
 - 6. All electronic documents shall be produced in their original electronic format.
- 7. If any documents requested herein have been destroyed, lost, discarded or otherwise disposed of, identify such information as completely as possible, including, without limitation, the following information: contents; author(s); recipient(s); sender(s); date prepared and/or received; date of disposal/destruction; manner of disposal/destruction; and person(s) currently in possession of the

information; the person(s) disposing of and/or destroying the information; and the circumstances surrounding the disposal or destruction of the information.

SUBPOENA REQUESTS

REQUEST NO. 1

Please produce any and all documents referring or relating to any Funding Agreement and the negotiation thereof.

REQUEST NO. 2

Please produce any and all documents between you and the Debtor and/or BDRC relating to any Funding Agreement or the Plan.

REQUEST NO. 3

Please produce any and all documents exchanged between you and the Debtor and/or BDRC, or shared internally between your employees or representatives regarding any Plan funding and or Funding Agreement.

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Exhibit 5

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UNITED STATES BANKRUPTCY COURT

District of U	tah		
In re:	OUDDOTMA		
EASY STREET HOLDING, LLC, et al.,	SUBPOENA		
Debtors.	Case Number: 09-29905 RKM Jointly Administered with Cases 09-29907 and 09-29908		
Address: 201 Heber Avenue Park City, Utah 84060			
	Chapter: 11		
	Honorable R. Kimball Mosier		
To: Ed Bailey 9045 South 1300 East Sandy, Utah 84094			
☐ YOU ARE COMMANDED to appear in the United States Bankruptcy Court at	the place, date and time specified below to testify in the above		
CASE. PLACE OF TESTIMONY	COURTROOM		
	Date and time: :		
YOU ARE COMMANDED to appear at the place, date, and time specified bet stenographically) in the above case	ow to testify at the taking of a deposition (to be recorded		
PLACE OF TESTIMONY Dorsey & Whitney, LLP 136 South Main Street, Suite 1000 Salt Lake City, Utah 84101	Friday, May 28, 2010 at 10:00 a.m. (Mountain)		
YOU ARE COMMANDED to produce and permit inspection and copying of the specified below (list documents or objects):	e following documents or objects at the place, date, and time		
PLACE	DATE AND TIME		
☐ YOU ARE COMMANDED to permit inspection of the following premises at the	e date and time specified below.		
PLACE	DATE AND TIME		
Any organization not a party to this suit that is subpoenaed for the taking of a managing agents, or other persons who consent to testify on its behalf, and the person will testify. Federal Rules of Civil Procedures, 30(b)(6) made appropriate to 1018 and 9914, Fed.R.Bankr.P.	may set forth, for each person designated, the matters on which		
ISSUING OFFICE SIGNATURE AND TALE AND T	May 17, 2010		
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Benjamin J. Kotter, Attorney for WestLB, AG DORSEY & WHITNEY LLP; 136 SOUTH MAIN STREET; SUITE 1000; SLC UTAL	ı 84101; 801-933-7360		

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				DATE		PLACE	
SERVE	ΞD						
SERVED ON (PRINT NAME)			MANNER OF SERVICE				
					DECLA	RATIO	N OF SERVER
Service i	l de s tru	clare e and	under pe I correct.	enalty of perjury und	ler the laws of the	United St	ates of America that the foregoing information contained in the Proof
Execute	ed or	ı	 	Date		Signatu	re of Server
						Addres	s of Server
Rule 45, Fe	ederal	Rules	of Civil Proc	edure, Parts (c) & (d) ma	de applicable in cases i	under the Bar	kruptcy Code by Rule 9016, Fed. R. Bankr. P.
(c) PROTE	CTIOI (1)	A par	ty or an atto	that cubocena. The cou	ssuance and service of ut on behalf of which the	e subpoena w	shall take reasonable steps to avoid imposing undue burden or expense on a ras issued shall enforce this duty and impose upon the party or attorney in d to, lost earnings and reasonable attorney's fee.
	(2)	(A)	A noman (ommanded to produce a	nd normit inspection an	d conving of c	lesignated books, papers, documents or tangible things, or inspection of tion unless commanded to appear for deposition, hearing or trial.
		(B)	Subject to subpoena subpoena the subpo- subpoena any time fo	paragraph (d)(2) of this ri or before the time specifi- written objection to inspe- ena shall not be entitled to	ule, a person command ed for compliance of su ction or copying of any to inspect and copy the has been made, the pa production. Such an o	ed to produce ch time is less or all of the di materials or in rty serving the rder to compe	e and permit inspection and copying may, within 14 days after service of the sthan 14 days after service, serve upon the party or attorney designated in the esignated materials or of the premises. If objection is made, the party serving ispect the premises except pursuant to an order by the court by which the subpoena may, upon notice to the person commanded to produce, move at it production shall protect any persons who is not a party or an officer of an
	(3)(۹)	On timely	motion, the court by whic	h a subpoena was issu	ed shall quasi	n or modify the subpoena if it
			resides, is employed ore regularly transacts b		fficer of a party to travel to a place more than 100 miles from the place where that person business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, commanded to travel from any such place within the state which the trial is held or,		
			(iii) (iv)	requires disclosure of p subjects a person to ur		ctea matter a	n no exception or waiver applies, or
(3)(B) If a subpoena				ena			

of

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or,
- requires disclosure of an unretained expert's opinion or information not describing expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonable compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

- A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.